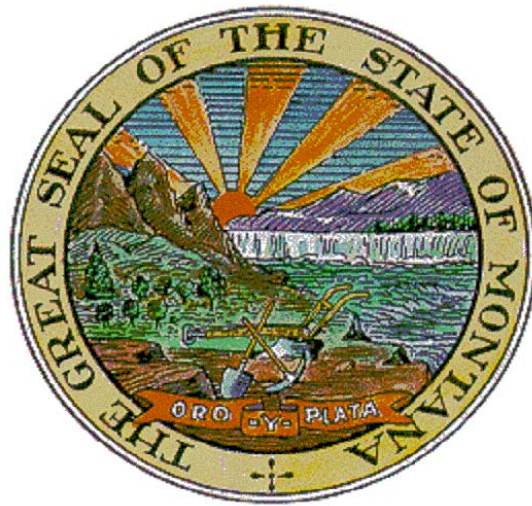


State of Montana
Department of Labor and Industry
Business Standards Division

BOARD SPECIFIC STATUTES
RELATING TO PUBLIC ACCOUNTANTS



ISSUED BY:

MONTANA STATE BOARD OF PUBLIC ACCOUNTANTS
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UPDATED 2005

2-15-1756. Board of public accountants. (1) There is a board of public accountants.

(2) The board consists of seven members appointed by the governor. The members are:

(a) four certified public accountants certified under Title 37, chapter 50, who are certified and actively engaged in the practice of public accounting and who have held a valid certificate for at least 5 years before being appointed. The Montana society of certified public accountants shall submit to the governor annually a list of names of two candidates from which the appointments of these members may be made. However, the governor is not restricted to the names on this list. These members may not be residents of the same county.

(b) one licensed public accountant licensed under Title 37, chapter 50, who is actively engaged in the practice of public accounting and who has held a valid license for at least 5 years before being appointed. When an appointment in this category is necessary, the Montana society of public accountants shall submit to the governor a list of names of two candidates from which the appointment may be made. However, the governor is not restricted to the names on this list. If there is no licensed public accountant known by the governor to be qualified and willing to serve in this position, the governor may appoint a certified public accountant meeting the qualifications provided in subsection (2)(a).

(c) two members of the general public who are not engaged in the practice of public accounting.

(3) Each appointment is subject to confirmation by the senate and must be submitted for consideration at the next regular session following appointment.

(4) The members shall serve staggered 5-year terms. A member may not serve consecutive 5-year terms on the board. A member is eligible for reappointment to the board after 1 year or more has elapsed. The governor may remove a member for neglect of duty or other just cause.

(5) The board is allocated to the department for administrative purposes only as prescribed in [2-15-121](#).

History: (1) thru (4)En. Sec. 1, Ch. 118, L. 1969; Sec. 66-1813, R.C.M. 1947; amd. and redes. 82A-1602.2 by Sec. 161, Ch. 350, L. 1974; Sec. 82A-1602.2, R.C.M. 1947; (5)En. 82A-1602 by Sec. 1, Ch. 272, L. 1971; amd. Sec. 10, Ch. 250, L. 1973; amd. Sec. 1, Ch. 285, L. 1973; amd. Sec. 1, Ch. 57, L. 1974; amd. Sec. 1, Ch. 58, L. 1974; amd. Sec. 1, Ch. 84, L. 1974; amd. Sec. 1, Ch. 99, L. 1974; amd. Sec. 354, Ch. 350, L. 1974; Sec. 82A-1602, R.C.M. 1947; R.C.M. 1947, 82A-1602(part), 82A-1602.2; amd. Sec. 3, Ch. 684, L. 1979; MCA 1979, , redes. by Sec. 4, Ch. 274, L. 1981; amd. Sec. 1, Ch. 382, L. 1989; Sec. , MCA 1999; redes. by Sec. 221(2), Ch. 483, L. 2001; amd. Sec. 4, Ch. 126, L. 2005.

**TITLE 37
CHAPTER 50
PART 1- 4**

PUBLIC ACCOUNTANTS

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Chapter Cross-References

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Professional service corporations, Title 35, ch. 4.

Part 1

General

37-50-101. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

- (1) "Board" means the board of public accountants provided for in 2-15-1756.
- (2) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.
- (3) "Practice of public accounting" means performing or offering to perform by a person certified under 37-50-302 or licensed under 37-50-303, for a client or

potential client, one or more types of services involving the use of accounting or auditing skills, including:

- (a) the issuance of reports or financial statements on which the public may rely;
- (b) one or more types of management advisory or consulting services;
- (c) the preparation of tax returns; or
- (d) furnishing advice on tax matters.

History: En. 66-1807.1 by Sec. 160, Ch. 350, L. 1974; R.C.M. 1947, 66-1807.1; amd. Sec. 3, Ch. 274, L. 1981; amd. Sec. 2, Ch. 382, L. 1989; amd. Sec. 143, Ch. 483, L. 2001.

37-50-102. Exemptions. This chapter does not prohibit any person who is not a certified public accountant or licensed public accountant from serving as an employee of or an assistant to a certified public accountant or a licensed public accountant holding a permit to practice under 37-50-314, a partnership or corporation composed of certified public accountants or licensed public accountants registered under this chapter, or a foreign accountant whose credentials have been recognized under 37-50-313. However, the employee or assistant may not issue any accounting or financial statement in the employee's or assistant's name.

History: En. Sec. 27, Ch. 118, L. 1969; R.C.M. 1947, 66-1839; amd. Sec. 4, Ch. 684, L. 1979; amd. Sec. 1, Ch. 335, L. 1983; amd. Sec. 3, Ch. 375, L. 2003.

Part 2

Board of Public Accountants

Part Cross-References

- Right to know, Art. II, sec. 9, Mont. Const.
- Seal defined, 1-4-201.
- Adoption and publication of rules, Title 2, ch. 4, part 3.
- Public records, Title 2, ch. 6.
- Allocation of boards for administrative purposes, 2-15-121.
- Quasi-judicial boards, 2-15-124.
- Board established, 2-15-1756.
- Entries in official books and records prima facie evidence, 26-1-605.
- Entry made by officer or Board prima facie evidence, 26-1-606.
- Requirement of authentication or identification, Rule 901, M.R.Ev. (see Title 26, ch. 10).
- Self-authentication, Rule 902, M.R.Ev. (see Title 26, ch. 10).
- Public records, Rule 1005, M.R.Ev. (see Title 26, ch. 10).
- Duties of Department, Director, and boards, Title 37, ch. 1, part 1.
- Duty of Board to adopt rules on conduct, 37-1-131.

37-50-201. Organization -- general rulemaking power -- seal -- records.

(1) The board shall elect annually a presiding officer and a secretary from its members.

(2) The board may adopt rules for the conduct of its affairs and the administration of this chapter.

(3) The board must have a seal that must be judicially noticed.

(4) The department shall keep records of the board's proceedings. In a proceeding in court, civil or criminal, arising out of or founded on this chapter, copies of these records certified as correct under the seal of the board are admissible in evidence as tending to prove the content of these records.

History: En. Sec. 3, Ch. 118, L. 1969; amd. Sec. 162, Ch. 350, L. 1974; amd. Sec. 35, Ch. 439, L. 1975; R.C.M. 1947, 66-1815(1) thru (5); amd. Sec. 5, Ch. 684, L. 1979; amd. Sec. 2, Ch. 335, L. 1983; amd. Sec. 33, Ch. 492, L. 2001.

37-50-202. Compensation of members -- expenses. Each member of the board is entitled to receive compensation and travel expenses as provided for in 37-1-133.

History: En. Sec. 3, Ch. 118, L. 1969; amd. Sec. 162, Ch. 350, L. 1974; amd. Sec. 35, Ch. 439, L. 1975; R.C.M. 1947, 66-1815(6); amd. Sec. 6, Ch. 684, L. 1979; amd. Sec. 28, Ch. 474, L. 1981.

37-50-203. Rules of the board. (1) The board may adopt rules, consistent with the purposes of this chapter, as it considers necessary.

(2) The board shall adopt:

(a) rules of professional conduct appropriate to establish and maintain a high standard of integrity, dignity, and competency in the profession of public accounting, including competency in specific fields of public accounting;

(b) rules of procedure governing the conduct of matters before the board;

(c) rules governing education requirements, as provided in 37-50-305, for issuance of the certificate of a certified public accountant and the license for licensed public accountant;

(d) rules defining requirements for accounting experience, not exceeding 2 years, for issuance of the initial permit; and

(e) rules to enforce the provisions of this chapter. The purpose of the rules must be to provide for the monitoring of the profession of public accounting and to maintain the quality of the accounting profession.

(3) The board may adopt rules:

(a) governing partnerships, corporations, and other types of entities practicing public accounting, including but not limited to rules concerning style, name, title, and affiliation with other organizations;

(b) (i) establishing reasonable standards with respect to professional liability insurance and unimpaired capital; and

(ii) prescribing joint and several liability for torts relating to professional services for shareholders of a corporation or owners of other types of entities that fail to comply with standards established pursuant to subsection (3)(b)(i); and

(c) establishing education and experience qualifications for out-of-state and foreign accountants seeking authorization to practice in Montana.

History: En. Sec. 5, Ch. 118, L. 1969; amd. Sec. 164, Ch. 350, L. 1974; R.C.M. 1947, 66-1817; amd. Sec. 7, Ch. 684, L. 1979; amd. Sec. 3, Ch. 335, L. 1983; amd. Sec. 101, Ch. 429, L. 1995; amd. Sec. 42, Ch. 492, L. 1997; amd. Sec. 4, Ch. 375, L. 2003.

37-50-204. Rulemaking powers relating to examinations. The board may adopt rules for the following:

- (1) the terms and conditions under which a candidate shall obtain credit for passing the required examination or portions of the examination;
- (2) the period of time that candidates are allowed to apply for reexamination; and
- (3) the fees to be charged each candidate for examinations and special examinations, which must be commensurate with costs.

History: En. Sec. 14, Ch. 118, L. 1969; amd. Sec. 9, Ch. 533, L. 1977; R.C.M. 1947, 66-1826; amd. Sec. 3, Ch. 196, L. 2003.

37-50-205. Duties of the department. The department shall:

- (1) assist the board in transactions of its business and keep a record of the board's official action; and
- (2) assess to the board the reasonable costs of the department incurred in assisting the board.

History: En. Sec. 21, Ch. 684, L. 1979.

Part 3

Licensing

Part Cross-References

Licensing to follow contested case procedure, 2-4-631.

Duty of Department to administer and grade examinations, 37-1-101.

Duty of Board to adopt and enforce licensing and certification rules, 37-1-131.

Licensing investigation and review -- record access, 37-1-135.

Grounds for disciplinary action as grounds for license denial -- conditions to new licenses, 37-1-137.

Licensure of criminal offenders, Title 37, ch. 1, part 2.

Nondiscrimination in licensing, 49-3-204.

37-50-301. Illegal use of title. (1) A person may not assume or use the title or designation "certified public accountant" or the abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device indicating that the

person is a certified public accountant unless the person holds a current certificate as a certified public accountant under this chapter. However, a foreign accountant whose credentials are recognized under the provisions of 37-50-313 shall use the title under which the foreign accountant is generally known in the foreign country, followed by the name of the country from which the foreign accountant's certificate, license, or degree was received.

(2) A partnership or corporation may not assume or use the title or designation "certified public accountant" or the abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device indicating that the partnership or corporation is composed of certified public accountants pursuant to the requirements of 37-50-330 unless it is registered as required under 37-50-335.

(3) A person may not assume or use the title or designation "licensed public accountant", "public accountant", or any other title, designation, words, letters, abbreviation, sign, card, or device indicating that the person is a public accountant unless the person holds a current license as a licensed public accountant under this chapter.

(4) A partnership or corporation may not assume or use the title or designation "licensed public accountant", "public accountant", or any other title, designation, words, letters, abbreviation, sign, card, or device indicating that the partnership or corporation is composed of public accountants unless it is registered as required under 37-50-335.

(5) A person, corporation, or partnership may not assume or use the title or designation "certified accountant", "chartered accountant", "enrolled accountant", "licensed accountant", "registered accountant", or any other title or designation likely to be confused with "certified public accountant", "licensed public accountant", "public accountant" or any of the abbreviations "CA", "EA", "LA", or "RA" or similar abbreviations likely to be confused with "CPA". However, a foreign accountant whose credentials are recognized under 37-50-313 shall use the title under which the foreign accountant is generally known in the foreign country, followed by the name of the country from which the foreign accountant's certificate, license, or degree was received, and a person who is licensed as an enrolled agent by the internal revenue service may use the title "enrolled agent" or the abbreviation "EA".

(6) A person may not sign or affix the person's name or any trade or assumed name used by the person in the person's profession or business with any wording indicating that the person has expert knowledge in accounting or auditing to any accounting or financial statement or to any opinion on, report on, or certificate to any accounting or financial statement unless the person holds a current permit issued under 37-50-314 and all of the person's offices in this state for the practice of public accounting are maintained and registered under 37-50-335. However, the provisions of this subsection do not prohibit any officer, employee, partner, or principal of any organization from affixing a signature to any statement or report in reference to the financial affairs of that organization with any wording designating the position, title, or office that the person holds in that organization, nor do the provisions of this subsection prohibit any act of a public official or public employee in the performance of the official's or employee's public duties.

(7) A person may not sign or affix a partnership or corporation name with any wording indicating that it is a partnership or corporation composed of persons having

expert knowledge in accounting or auditing to any accounting or financial statement or to any report on or certificate to any accounting or financial statement unless the partnership or corporation conforms to the requirements of 37-50-330 and is registered as required under 37-50-335.

(8) A person may not assume or use the title or designation "certified public accountant" or "public accountant" in conjunction with names indicating or implying that there is a partnership or corporation or in conjunction with the designation "and company" or "and co." or a similar designation if there is in fact no bona fide partnership or corporation that has been formed subject to the provisions of 37-50-330 and registered under 37-50-335. However, it is lawful for a sole proprietor to continue the use of a deceased's name in connection with the sole proprietor's business for a reasonable period of time after the death of a former partner.

History: En. Sec. 26, Ch. 118, L. 1969; amd. Sec. 5, Ch. 207, L. 1974; amd. Sec. 14, Ch. 101, L. 1977; R.C.M. 1947, 66-1838; amd. Sec. 8, Ch. 684, L. 1979; amd. Sec. 162, Ch. 575, L. 1981; amd. Sec. 4, Ch. 335, L. 1983; amd. Sec. 2, Ch. 123, L. 2001; amd. Sec. 5, Ch. 375, L. 2003.

37-50-302. Certified public accountants -- certification -- qualifications and requirements. The board shall grant an initial certificate as a certified public accountant to any person who:

- (1) is of good moral character;
- (2) has successfully passed the certified public accountants' examination; and
- (3) meets the requirements of education set forth in this chapter and in board rules.

History: En. Sec. 7, Ch. 118, L. 1969; amd. Sec. 5, Ch. 168, L. 1971; amd. Sec. 166, Ch. 350, L. 1974; R.C.M. 1947, 66-1819; amd. Sec. 9, Ch. 684, L. 1979; amd. Sec. 5, Ch. 335, L. 1983.

37-50-303. Public accountants -- licensure -- qualifications and requirements. The board shall grant an initial license as a licensed public accountant to any person who:

- (1) is of good moral character;
- (2) meets the requirements of education set forth in this chapter and board rules; and
- (3) complies with the qualifications and requirements in any one of the subsections of 37-50-304.

History: En. Sec. 8, Ch. 118, L. 1969; amd. Sec. 6, Ch. 168, L. 1971; amd. Sec. 167, Ch. 350, L. 1974; R.C.M. 1947, 66-1820; amd. Sec. 6, Ch. 341, L. 1981; amd. Sec. 163, Ch. 575, L. 1981; amd. Sec. 6, Ch. 335, L. 1983.

37-50-304. Public accountants -- licensure without examination of former military personnel -- examination otherwise required. (1) A person serving in the armed forces of the United States on July 1, 1969, who immediately prior to entering the armed forces represented to the public that the person was a public accountant and who was engaged as a principal in this state in the practice of public accounting

as the person's principal occupation prior to service in the armed forces may register with the department within 6 months after the date of the person's separation from active service and, on registration and payment of the license fee, be issued a license by the department as a licensed public accountant. A principal is either the owner of or a partner in an existing accounting practice on July 1, 1969.

(2) To be issued a license as a licensed public accountant, a person who does not qualify under subsection (1) shall successfully complete those portions of the examination prescribed by the board by rule. The board may require successful completion of alternate portions of the examination for applicants holding valid United States treasury cards at the time of taking the examination.

History: En. Sec. 9, Ch. 118, L. 1969; amd. Sec. 168, Ch. 350, L. 1974; R.C.M. 1947, 66-1821; amd. Sec. 1, Ch. 218, L. 1993; amd. Sec. 100, Ch. 467, L. 2005.

37-50-305. Education requirements. (1) A candidate for initial certification as a certified public accountant or licensing as a licensed public accountant must have graduated from a college or university accredited to offer a baccalaureate degree:

(a) with an accounting concentration or its equivalent as determined by the board; and

(b) with at least 150 semester hours of credit, including those earned toward the baccalaureate degree or its equivalent.

(2) For the purposes of this section, "initial certification" means that the candidate has never been certified as a certified public accountant or licensed as a licensed public accountant by any jurisdiction.

History: En. Sec. 12, Ch. 118, L. 1969; R.C.M. 1947, 66-1824; amd. Sec. 10, Ch. 684, L. 1979; amd. Sec. 7, Ch. 335, L. 1983; amd. Sec. 3, Ch. 382, L. 1989; amd. Sec. 4, Ch. 196, L. 2003.

37-50-306. Repealed. Sec. 26, Ch. 684, L. 1979.

History: En. Sec. 13, Ch. 118, L. 1969; amd. Sec. 169, Ch. 350, L. 1974; R.C.M. 1947, 66-1825(1), (2), (4), (5).

37-50-307. Repealed. Sec. 26, Ch. 684, L. 1979.

History: En. Sec. 18, Ch. 118, L. 1969; amd. Sec. 171, Ch. 350, L. 1974; R.C.M. 1947, 66-1830.

37-50-308. Repealed. Sec. 127, Ch. 467, L. 2005.

History: En. Sec. 6, Ch. 118, L. 1969; amd. Sec. 165, Ch. 350, L. 1974; R.C.M. 1947, 66-1818; amd. Sec. 20, Ch. 22, L. 1979; amd. Sec. 11, Ch. 684, L. 1979; amd. Sec. 8, Ch. 335, L. 1983; amd. Sec. 21, Ch. 230, L. 1999; amd. Sec. 5, Ch. 196, L. 2003.

37-50-309. Credit for examinations taken in other jurisdictions. The board may by rule provide for granting credit to a candidate for the satisfactory completion of an examination in any one or more of the subjects of examination given by the licensing authority in another jurisdiction.

History: En. Sec. 13, Ch. 118, L. 1969; amd. Sec. 169, Ch. 350, L. 1974; R.C.M. 1947, 66-1825(3); amd. Sec. 12, Ch. 684, L. 1979; amd. Sec. 6, Ch. 196, L. 2003.

37-50-310. Existing certificates sufficient. Persons who, on July 1, 1969, held certified public accountant certificates heretofore issued under the laws of this state shall not be required to obtain additional certificates under this chapter but shall otherwise be subject to all provisions of this chapter. Such certificates heretofore issued shall, for all purposes, be considered certificates issued under this chapter and subject to the provisions hereof.

History: En. Sec. 15, Ch. 118, L. 1969; R.C.M. 1947, 66-1827(part).

37-50-311. Certified public accountants -- waiver of examination for holders of foreign or out-of-state licenses, certificates, permits, or degrees. The board in its discretion may waive the examination and issue a certificate as a certified public accountant to any person otherwise eligible who is the holder of:

(1) a certificate, license, or permit as a certified public accountant, then in full force and effect, issued under the laws of any state;

(2) a certificate, license, or degree in a foreign country constituting a recognized qualification for the practice of public accounting in that country, comparable to that of a certified public accountant in this state, which is then in full force and effect; or

(3) a certificate, license, or degree that the board considers to be subject to requirements or qualifications substantially equivalent to or greater than the requirements of this state at the time of the holder's application.

History: En. Sec. 15, Ch. 118, L. 1969; R.C.M. 1947, 66-1827(part); amd. Sec. 9, Ch. 335, L. 1983; amd. Sec. 6, Ch. 375, L. 2003.

Cross-References

Recognition of out-of-state licenses during disaster or emergency, 10-3-204.

37-50-312. Public accountants -- waiver of examination for holders of out-of-state license. The board in its discretion may waive the examination and register as a licensed public accountant any person otherwise eligible who is the holder of:

(1) a license as a licensed public accountant, then in full force and effect, issued under the laws of any state;

(2) a license or degree in a foreign country constituting a recognized qualification for the practice of public accounting in that country, comparable to that of a licensed public accountant in this state, which is then in full force and effect; or

(3) a certificate, license, or degree that the board considers to be subject to requirements or qualifications substantially equivalent to or greater than the requirements of this state at the time of the holder's application.

History: En. Sec. 15, Ch. 118, L. 1969; R.C.M. 1947, 66-1827(part); amd. Sec. 10, Ch. 335, L. 1983; amd. Sec. 7, Ch. 375, L. 2003.

Cross-References

Recognition of out-of-state licenses during disaster or emergency, 10-3-204.

37-50-313. Recognition of credentials of foreign accountants -- restriction on title used -- practice. (1) The board may in its discretion recognize the credentials of any person of good moral character who is the holder of a certificate, license, or degree in a foreign country constituting a recognized qualification for the practice of public accounting in that country. A person whose credentials are recognized may use only the title under which the person is generally known in that country, followed by the name of the country from which the person received the certificate, license, or degree.

(2) A person whose credentials are recognized by the board may practice public accounting under the terms and conditions established by the board.

History: En. Sec. 16, Ch. 118, L. 1969; R.C.M. 1947, 66-1828; amd. Sec. 8, Ch. 375, L. 2003.

37-50-314. Permit required -- display. (1) A person may not engage in the practice of public accounting in this state without a current permit issued by the department. A permit to engage in the practice of public accounting in this state must be issued by the department to a person who holds a current certificate as a certified public accountant or license as a licensed public accountant and complies with the requirements of this chapter.

(2) The current permit to engage in the practice of public accounting must be prominently displayed for public inspection.

History: En. Sec. 21, Ch. 118, L. 1969; amd. Sec. 174, Ch. 350, L. 1974; R.C.M. 1947, 66-1833; amd. Sec. 13, Ch. 684, L. 1979; amd. Sec. 11, Ch. 335, L. 1983; amd. Sec. 102, Ch. 429, L. 1995; amd. Sec. 43, Ch. 492, L. 1997.

37-50-315. Deposit of moneys collected. Fees and other moneys collected by the department under this chapter shall be deposited in the state special revenue fund for the use of the board.

History: En. Sec. 4, Ch. 118, L. 1969; amd. Sec. 163, Ch. 350, L. 1974; R.C.M. 1947, 66-1816; amd. Sec. 14, Ch. 684, L. 1979; amd. Sec. 1, Ch. 277, L. 1983.

37-50-316. Other license fees prohibited. No certificate, permit, or license fees shall be imposed as a condition upon the practice of public accountancy other than those provided for in this chapter.

History: En. Sec. 30, Ch. 118, L. 1969; R.C.M. 1947, 66-1842; amd. Sec. 12, Ch. 335, L. 1983.

37-50-317. Repealed. Sec. 127, Ch. 467, L. 2005.

History: En. Sec. 13, Ch. 335, L. 1983; amd. Sec. 103, Ch. 429, L. 1995; amd. Sec. 44, Ch. 492, L. 1997; amd. Sec. 47, Ch. 271, L. 2003.

37-50-318 through 37-50-320 reserved.

37-50-321. Repealed. Sec. 128, Ch. 429, L. 1995.

History: En. Sec. 22, Ch. 118, L. 1969; R.C.M. 1947, 66-1834; amd. Sec. 15, Ch. 684, L. 1979; amd. Sec. 14, Ch. 335, L. 1983.

37-50-322. Repealed. Sec. 128, Ch. 429, L. 1995.

History: En. Sec. 25, Ch. 118, L. 1969; amd. Sec. 176, Ch. 350, L. 1974; R.C.M. 1947, 66-1837; amd. Sec. 15, Ch. 335, L. 1983.

37-50-323. Special practice permit for nonresident certified public accountant -- rules. (1) A person may obtain a special practice permit if the person:

- (a) is not a Montana resident;
- (b) does not maintain an office in Montana;
- (c) is licensed, under an active status license, to practice public accounting as a certified public accountant in one or more jurisdictions recognized by the board as having licensing standards substantially equivalent to the standards authorizing the practice of public accounting in this state; and
- (d) has not had an adverse disciplinary action taken against the person for the practice of public accounting by any other jurisdiction.

(2) A person who obtains a special practice permit:

- (a) is subject to the disciplinary authority of the board for acts performed pursuant to this section in this state; and
- (b) consents to the appointment of the board of accountancy or a corresponding entity of the jurisdiction in which the person was issued a license to practice public accounting as a certified public accountant as the person's agent for the service of process in any action or proceeding by the board of this state against the person.

(3) A special practice permit issued under this section may be renewed on an annual basis in the manner prescribed by the board by rule.

(4) The board may adopt rules, including rules establishing fees that are commensurate with costs, to implement 37-50-324 and this section.

History: En. Sec. 1, Ch. 541, L. 2005.

37-50-324. Nonresident registration. (1) A person, firm, partnership,

corporation, or other business entity that offers to engage in or engages in public accounting services in Montana through a person holding a special practice permit shall register with the board.

(2) (a) A person with a special practice permit engages in unprofessional conduct if the person offers services for or on behalf of a person, firm, partnership, corporation, or other business entity that is not registered with the board pursuant to 37-50-335 or this section.

(b) A person, firm, partnership, corporation, or other business entity may not lawfully engage in or assist in providing public accounting services in this state unless properly registered with the board under 37-50-335 or this section.

History: En. Sec. 2, Ch. 541, L. 2005.

37-50-325 through 37-50-329 reserved.

37-50-330. Corporations and partnerships -- registration -- compliance with ownership requirements. (1) A corporation or partnership composed of certified public accountants or a corporation or partnership composed of public accountants that is or plans to become engaged in the practice of public accounting may include individuals who are not licensed as public accountants or certified as certified public accountants if:

(a) the corporation or partnership designates an accountant who is licensed or certified in this state to be responsible for the proper registration of the corporation or partnership;

(b) a simple majority of ownership in the corporation or partnership, in terms of equity and voting rights, is held by accountants who are licensed or certified accountants in this state or in another jurisdiction;

(c) all persons with an ownership interest in the partnership or corporation are individuals actively participating in the business of the partnership or corporation; and

(d) any person with an ownership interest in the partnership or corporation who is not licensed or certified as an accountant and who holds a professional license, registration, or certification issued by this state or another jurisdiction is in compliance with the requirements for that license, registration, or certification.

(2) An accountant licensed or certified in this state who holds an ownership interest in a partnership or corporation organized pursuant to this section is ultimately responsible for all services provided by the partnership or corporation including any unit, branch, or division of the partnership or corporation providing attestation services.

(3) (a) A partnership or corporation that is no longer in compliance with the ownership requirements of subsection (1)(b) shall give notice to the board within 90 days of the noncompliance.

(b) The board shall grant the partnership or corporation a reasonable amount of time to reestablish compliance with the ownership requirements of subsection (1)(b). The time granted by the board to a partnership or corporation to reestablish compliance may not be less than 90 days from the date the board receives the partnership's or corporation's notice of noncompliance.

(c) The failure of a partnership or corporation to reestablish compliance with the ownership requirements of subsection (1)(b) is grounds for the board to suspend

or revoke the partnership's or corporation's registration required by 37-50-335.

History: En. Sec. 1, Ch. 123, L. 2001.

37-50-331. Repealed. Sec. 3, Ch. 123, L. 2001.

History: En. Sec. 17, Ch. 118, L. 1969; amd. Sec. 170, Ch. 350, L. 1974; R.C.M. 1947, 66-1829; amd. Sec. 16, Ch. 684, L. 1979.

37-50-332. Repealed. Sec. 3, Ch. 123, L. 2001.

History: En. 66-1829.1 by Sec. 1, Ch. 207, L. 1974; amd. Sec. 11, Ch. 101, L. 1977; R.C.M. 1947, 66-1829.1; amd. Sec. 17, Ch. 684, L. 1979.

37-50-333. Repealed. Sec. 3, Ch. 123, L. 2001.

History: En. Sec. 19, Ch. 118, L. 1969; amd. Sec. 172, Ch. 350, L. 1974; R.C.M. 1947, 66-1831; amd. Sec. 18, Ch. 684, L. 1979; amd. Sec. 16, Ch. 335, L. 1983.

37-50-334. Repealed. Sec. 3, Ch. 123, L. 2001.

History: En. 66-1831.1 by Sec. 2, Ch. 207, L. 1974; amd. Sec. 12, Ch. 101, L. 1977; R.C.M. 1947, 66-1831.1; amd. Sec. 19, Ch. 684, L. 1979; amd. Sec. 17, Ch. 335, L. 1983.

37-50-335. Registration of offices. Each office established or maintained in this state for the practice of public accounting in this state by a certified public accountant, by a partnership or corporation of certified public accountants, by a licensed public accountant, by a partnership or corporation of licensed public accountants, or by a foreign accountant recognized under 37-50-313 must be registered annually with the department. A fee may not be charged for this registration. In addition, each individual engaged in this state in the practice of public accounting must have annually received a permit under 37-50-314.

History: En. Sec. 20, Ch. 118, L. 1969; amd. Sec. 3, Ch. 207, L. 1974; amd. Sec. 173, Ch. 350, L. 1974; amd. Sec. 13, Ch. 101, L. 1977; R.C.M. 1947, 66-1832; amd. Sec. 20, Ch. 684, L. 1979; amd. Sec. 18, Ch. 335, L. 1983; amd. Sec. 9, Ch. 375, L. 2003.

37-50-336. Repealed. Sec. 128, Ch. 429, L. 1995.

History: En. Sec. 23, Ch. 118, L. 1969; amd. Sec. 4, Ch. 207, L. 1974; R.C.M. 1947, 66-1835.

37-50-337 through 37-50-340 reserved.

37-50-341. Initiation of proceedings -- hearings and rulemaking. (1) The board may initiate proceedings under this chapter either on its own motion or on the complaint of a person.

(2) Hearings and rulemaking proceedings shall be governed in all respects by the Montana Administrative Procedure Act.

History: En. Sec. 24, Ch. 118, L. 1969; amd. Sec. 175, Ch. 350, L. 1974; R.C.M. 1947, 66-1836.

Cross-References

Montana Administrative Procedure Act, Title 2, ch. 4.

37-50-342. Violation. Any person who violates any provision of this chapter or the rules of the board is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$500, by imprisonment in the county jail for not more than 6 months, or by both such fine and imprisonment.

History: En. Sec. 28, Ch. 118, L. 1969; R.C.M. 1947, 66-1840; amd. Sec. 19, Ch. 335, L. 1983.

Part 4

Miscellaneous Provisions

37-50-401. False statements by accountants -- misdemeanor -- penalty. Any person practicing as an accountant, public accountant, auditor, or certified public accountant in this state who, because of negligence, gross inefficiency, or willfulness, shall issue or permit the issuance of any false statement of the financial transactions, standing, or condition of any corporation, partnership, or individual business undertaking shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than \$500 or more than \$2,000 or imprisoned for a period of not less than 90 days or more than 1 year or subjected to both said fine and imprisonment, in the discretion of the court.

History: En. Sec. 8, Ch. 46, L. 1933; re-en. Sec. 3241.8, R.C.M. 1935; R.C.M. 1947, 66-1808.

37-50-402. Privileged communications -- exceptions. (1) Except by permission of the client, person, firm, or corporation engaging a certified or licensed public accountant or an employee of the accountant or by permission of the heirs, successors, or personal representatives of the client, person, firm, or corporation and except for the expression of opinions on financial statements, a certified public accountant, licensed public accountant, or employee thereof may not be required to disclose or divulge or voluntarily disclose or divulge information that the certified or licensed accountant or an employee may have relative to and in connection with any

professional services as a public accountant. The information derived from or as a result of professional services is considered confidential and privileged.

(2) The provisions of this section do not apply to the testimony or documents of a public accountant furnished pursuant to a subpoena in a court of competent jurisdiction, pursuant to a board proceeding, or in the process of any board-approved practice review program.

History: En. Sec. 29, Ch. 118, L. 1969; R.C.M. 1947, 66-1841; amd. Sec. 20, Ch. 335, L. 1983; amd. Sec. 1, Ch. 82, L. 1993.

Cross-References

Evidence -- privileges, Title 26, ch. 1, part 8.

37-50-403. Nonliability -- evidential privilege -- application to nonprofit corporations. (1) A member of a peer review, professional standards review, or ethics review committee of a society composed of persons licensed to practice the accounting profession is not liable in damages to any person for any action taken or recommendation made within the scope of the functions of the committee if the committee member acts without malice and in the reasonable belief that the action or recommendation is warranted by the facts known to him after reasonable effort to obtain the facts.

(2) The proceedings and records of peer review, professional standards review, and ethics review committees are not subject to discovery or introduction into evidence in any proceeding. However, information otherwise discoverable or admissible from an original source is not to be construed as immune from discovery or use in any proceeding merely because it was presented during proceedings before the committee, nor is a member of the committee or other person appearing before it to be prevented from testifying as to matters within his knowledge; however, he may not be questioned about his testimony or other proceedings before the committee or about opinions or other actions of the committee or any member of the committee.

(3) This section also applies to any member, agent, or employee of a nonprofit corporation engaged in performing the functions of a peer review, professional standards review, or ethics review committee with respect to the profession of accounting.

History: En. Sec. 1, Ch. 197, L. 1991.